

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

EASTMAN KODAK COMPANY,)	
)	
Plaintiff,)	C.A. No. 10-1079-SLR
)	
v.)	JURY TRIAL DEMANDED
)	
SHUTTERFLY, INC., and)	
TINY PRINTS, INC.,)	
)	
Defendants.)	

EASTMAN KODAK COMPANY’S FIRST AMENDED COMPLAINT

For its first amended complaint, the plaintiff, Eastman Kodak Company (“Kodak”), alleges as follows:

The Parties

1. The plaintiff, Kodak, is a New Jersey corporation with a principal place of business at 343 State Street, Rochester, New York.
2. The defendant, Shutterfly, Inc. (“Shutterfly”), is a Delaware corporation with, upon information and belief, a principal place of business at 2800 Bridge Parkway, Redwood City, California.
3. The defendant, Tiny Prints, Inc. (“Tiny Prints”), has, upon information and belief, its principal place of business at 884 Hermosa Court, Ste. 100, Sunnyvale, CA 94085. Upon information and belief, Tiny Prints is a wholly owned subsidiary of Shutterfly.

Jurisdiction and Venue

4. This is an action for patent infringement, arising under the patent laws of the United States, Title 35 of the United States Code.

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Shutterfly because Shutterfly is incorporated in Delaware, and, on information and belief, Shutterfly has transacted business in this District, supplied goods or services in this District directly or through its agents, purposely availed itself of the privileges and benefits of the laws of the State of Delaware, and committed acts of patent infringement during the course of its business in this District.

7. This Court has personal jurisdiction over Tiny Prints because Tiny Prints is a wholly owned subsidiary of Shutterfly (a Delaware corporation), and, on information and belief, Tiny Prints has transacted business in this District, supplied goods or services in this District directly or through its agents, purposely availed itself of the privileges and benefits of the laws of the State of Delaware, and committed acts of patent infringement during the course of its business in this District.

8. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400(b).

Count I: Infringement of U.S. Patent No. 6,549,306

9. Kodak is the owner of United States Patent No. 6,549,306 B2, entitled SYSTEM AND METHOD FOR SELECTING PHOTOGRAPHIC IMAGES USING INDEX PRINTS (“the ‘306 patent”). The ‘306 patent was duly and legally issued by the United States Patent Office on April 15, 2003 and is valid and subsisting in full force and effect. A copy of the ‘306 patent is attached to this Complaint as Ex. A.

10. Shutterfly has infringed at least claim 1 of the ‘306 patent by using the patented invention, and/or by making, selling, and/or offering to sell photographic prints through its website, shutterfly.com, made in a manner that uses the patented invention.

11. Upon information and belief, Shutterfly's infringement of the '306 patent has been and continues to be willful.

12. Kodak has been damaged by Shutterfly's infringement of the '306 patent.

13. Shutterfly's infringement will continue unless enjoined by this Court.

14. Tiny Prints has infringed at least claim 1 of the '306 patent by using the patented invention, and/or by making, selling, and/or offering to sell photographic prints through its website(s) made in a manner that uses the patented invention.

15. Upon information and belief, Tiny Prints' infringement of the '306 patent has been and continues to be willful.

16. Kodak has been damaged by Tiny Prints' infringement of the '306 patent.

17. Tiny Prints' infringement will continue unless enjoined by this Court.

Count II: Infringement of U.S. Patent No. 6,600,572

18. Kodak is the owner of United States Patent No. 6,600,572 B2, entitled SYSTEM AND METHOD FOR SELECTING PHOTOGRAPHIC IMAGES USING INDEX PRINTS ("the '572 patent"). The '572 patent was duly and legally issued by the United States Patent Office on July 29, 2003 and is valid and subsisting in full force and effect. A copy of the '572 patent is attached to this Complaint as Ex. B.

19. Shutterfly has infringed at least claim 1 of the '572 patent by using the patented invention, and/or by making, selling, and/or offering to sell image products and services (e.g., prints, photo books, etc.) through its website, shutterfly.com, made in a manner that uses the patented invention.

20. Upon information and belief, Shutterfly's infringement of the '572 patent has been and continues to be willful.

21. Kodak has been damaged by Shutterfly's infringement of the '572 patent.

22. Shutterfly's infringement will continue unless enjoined by this Court.

Count III: Infringement of U.S. Patent No. 7,202,982 B2

23. Kodak is the owner of United States Patent No. 7,202,982 B2, entitled SYSTEM AND METHOD FOR SELECTING PHOTOGRAPHIC IMAGES USING INDEX PRINTS ("the '982 patent"). The '982 patent was duly and legally issued by the United States Patent Office on April 10, 2007 and is valid and subsisting in full force and effect. A copy of the '982 patent is attached to this Complaint as Ex. C.

24. Shutterfly has infringed at least claim 1 of the '982 patent by using the patented invention, and/or by making, selling, and/or offering to sell image products and services (e.g., prints, photo books, etc.) through its website, shutterfly.com, made in a manner that uses the patented invention.

25. Upon information and belief, Shutterfly's infringement of the '982 patent has been and continues to be willful.

26. Kodak has been damaged by Shutterfly's infringement of the '982 patent. Shutterfly's infringement will continue unless enjoined by this Court.

27. Tiny Prints has infringed at least claim 1 of the '982 patent by using the patented invention, and/or by making, selling, and/or offering to sell image products and services (e.g., prints, photo books, etc.) through its website(s) made in a manner that uses the patented invention.

28. Upon information and belief, Tiny Prints' infringement of the '982 patent has been and continues to be willful.

29. Kodak has been damaged by Tiny Prints' infringement of the '982 patent.

30. Tiny Prints' infringement will continue unless enjoined by this Court.

Count IV: Infringement of U.S. Patent No. 6,069,712

31. Kodak is the owner of United States Patent No. 6,069,712, entitled IMAGE HANDLING METHOD AND SYSTEM INCORPORATING CODED INSTRUCTIONS ("the '712 patent"). The '712 patent was duly and legally issued by the United States Patent Office on May 30, 2000, and is valid and subsisting in full force and effect. A copy of the '712 patent is attached to this Complaint as Ex. D.

32. Shutterfly has infringed at least claim 9 of the '712 patent by using the patented invention, and/or by making, selling, and/or offering to sell image products and services (e.g., prints, photo books, etc.) through its website, shutterfly.com, made in a manner that uses the patented invention.

33. Upon information and belief, Shutterfly's infringement of the '712 patent has been and continues to be willful.

34. Kodak has been damaged by Shutterfly's infringement of the '712 patent. Shutterfly's infringement will continue unless enjoined by this Court.

Count V: Infringement of U.S. Patent No. 6,512,570 B2

35. Kodak is the owner of United States Patent No. 6,512,570 B2, entitled METHOD OF PROCESSING A ROLL OF EXPOSED PHOTOGRAPHIC FILM CONTAINING PHOTOGRAPHIC IMAGES INTO CORRESPONDING DIGITAL IMAGES AND THEN DISTRIBUTING VISUAL PRINTS PRODUCED FROM THE DIGITAL IMAGES ("the '570 patent"). The '570 patent was duly and legally issued by the United States Patent Office on January 28, 2003 and is valid and subsisting in full force and effect. A copy of the '570 patent is attached to this Complaint as Ex. E.

36. Shutterfly has infringed at least claim 8 of the '570 patent by using the patented invention, and/or by making, selling, and/or offering to sell image products and services (e.g., prints, photo books, etc.) through its website, shutterfly.com, made in a manner that uses the patented invention.

37. Upon information and belief, Shutterfly's infringement of the '570 patent has been and continues to be willful.

38. Kodak has been damaged by Shutterfly's infringement of the '570 patent. Shutterfly's infringement will continue unless enjoined by this Court.

Count VI: Infringement of U.S. Patent No. 6,631,011

39. Kodak is the owner of United States Patent No. 6,631,011 B2, entitled SYSTEM AND METHOD FOR SELECTING PHOTOGRAPHIC IMAGES USING INDEX PRINTS ("the '011 patent"). The '011 patent was duly and legally issued by the United States Patent Office on October 7, 2003 and is valid and subsisting in full force and effect. A copy of the '011 patent is attached to this Complaint as Ex. F.

40. Tiny Prints has infringed at least claim 20 of the '011 patent by using the patented invention, and/or by making, selling, and/or offering to sell image products and services (e.g., prints, photo books, etc.) through its website(s) made in a manner that uses the patented invention.

41. Upon information and belief, Tiny Prints' infringement of the '011 patent has been and continues to be willful.

42. Kodak has been damaged by Tiny Prints' infringement of the '011 patent.

43. Tiny Prints' infringement will continue unless enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Kodak prays that this Court:

- A. Enter judgment that Shutterfly has infringed the ‘306, ‘572, ‘982, ‘712, and ‘570 patents;
- B. Enter judgment that Tiny Prints has infringed the ‘306, ‘982, and ‘011 patents;
- C. Enter an order enjoining Shutterfly, its agents and employees, and any others acting in concert with it from infringing the ‘306, ‘572, ‘982, ‘712, and ‘570 patents;
- D. Enter an order enjoining Tiny Prints, its agents and employees, and any others acting in concert with it from infringing the ‘306, ‘982, and ‘011 patents;
- E. Award Kodak its damages resulting from Shutterfly’s and Tiny Prints’ patent infringement pursuant to 35 U.S.C. §284;
- F. Find that Shutterfly’s infringement has been willful and increase the damages awarded to Kodak three times the amount assessed, pursuant to 35 U.S.C. §284;
- G. Find that Tiny Prints’ infringement has been willful and increase the damages awarded to Kodak three times the amount assessed, pursuant to 35 U.S.C. §284;
- H. Find this to be an exceptional case and award Kodak its attorneys’ fees, pursuant to 35 U.S.C. §285;
- I. Award Kodak its prejudgment and post judgment interest on its damages;
- J. Award Kodak its costs; and
- K. Award Kodak such other and further relief as this Court deems just and appropriate.

JURY DEMAND

Plaintiff demands a trial by jury for all issues so triable.

Dated: November 16, 2011

Respectfully submitted,

By: /s/ Francis DiGiovanni

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